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## BOOK REVIEWS

*Volkmord oder volkerbund?* By Dr. Heinrich Lammasch. The Hague, Martinus Nijhoff, 1920. pp. 128.

"The publication of this last volume by our departed statesman and jurist," says an editorial note by his colleague at the University of Vienna, "will surely be received not only with the interest which belongs to the subject of his study, but also with a feeling of sincere gratitude for the great work accomplished by the author both as a wise counsellor and as a practical arbitrator seeking to bring about harmony between the nations and to promote the cause of international arbitration and world peace." Those in other countries who remember how valiant have been the labors of this Austrian jurist in the field of international law and how keen was his disappointment at the outbreak of the world war will be doubly impressed by the logic and earnestness of the appeal here presented.

The choice for the nations, he says, is between mutual extermination and international union. The old order of state sovereignty and arbitrary interpretation and enforcement of claims of right has clearly broken down. A "solidarity of interests" compels the nations to regard war between any two of them as a matter of concern to the whole body and to undertake the task of affording each of them protection against attack. The experience of history has shown us that the mere declarations of the nations in favor of a rule of law, such as those made at the Hague Conferences, are inadequate to secure peace. An effective "league of peace" must transform the "recommendations" of the Hague Conferences into legal obligations, it must embrace within its jurisdiction all disputes, including those affecting vital interests as well as those hitherto regarded as justiciable, and it must create a sanction to enforce the observance of the law. Dr. Lammasch, while taking exception to the membership of the League of Nations, sees in the Covenant the embodiment of these necessary conditions of peace, and he does not consider Article 10 as a "petrification" of the territorial *status quo*. As obstacles to the development of such an agreement there is the traditional worship of the state as the "highest unity" in which men can be bound, as well as the belief in the value of war as a means of national development. The fact that both ideas run counter to the facts of history as well as to the demands of reason has not prevented their influence for harm.

In discussing the specific methods by which international disputes are to be settled, Dr. Lammasch recognizes the distinction between disputes of a justiciable character, which are by their nature susceptible of an arbitral decision, and disputes of a non-justiciable character arising from "the economic rivalry of states and their national aspirations." The former may well be taken care of by the courts of arbitration created at the Hague, if, in addition, the jurisdiction of the court be made compulsory and a sanction be attached to its decrees. The Judicial Arbitration Court, provided for at the Hague but never actually brought into being, should be set up as a permanent court of justice as distinct from the temporary courts of arbitration. Disputes of a non-justiciable character are to be adjusted by "agencies of mediation", such as those provided for at the Hague; but here again the resort to "good offices" and mediation must not be left optional, but must be put upon a legal and compulsory footing. The commissions provided for in the Bryan treaties of 1913-1914 furnish an example of the kind of agency required. With respect to the sanction by which the operation of the international courts and commissions is to be made effective Dr. Lammasch shows that the world war has brought about a "fundamental change of view" on the part of publicists. Many who, like himself, formerly

relied upon a moral sanction now confess to the need of a physical sanction as a last resort. The two closing chapters discuss the preventive and constructive activities to be performed by the League of Nations.

The death of Dr. Lammasch on January 7, 1920, was a loss which the new Republic of Austria could ill afford to suffer. He had been technical delegate of his country at both of the Hague Conferences and had served as president or member of arbitration tribunals in four important cases submitted to the Hague Permanent Court. As a pacifist in the best sense he had opposed the military party which was responsible for the outbreak of the war and subsequently labored to bring about a just peace by settlement. Had his voice been heeded, his country would have been spared much of its present suffering. It is to be hoped that these final words of a noble and just man will be translated and made accessible to the English-speaking public.

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*Early Records of Gilpin County, Colorado.* Edited by Thomas M. Marshall. Published by the University of Colorado, 1920. pp. 313.

The first rush of gold seekers to Colorado occurred in 1858 and 1859. In the present volume are found the records of the earliest organizations in the state and the legislation of the early mining districts. In June, 1859, the Rocky Mountain News reported "The first mass meeting ever held in the Rocky Mountains." It was at the "Gregory Diggings", attended by "between two and three thousand miners", and was addressed by Horace Greeley. A report on what they found at Gregory Diggings was prepared by a committee of three distinguished visitors, consisting of Horace Greeley, A. D. Richardson, and Henry Villard. At the mass meeting then held the miners designated boundaries of the district, prescribed rules as to the size and location of claims, and created a miners' court. At later meetings these laws were amplified. In the volume is found the legislation of some nineteen mining districts, enacted at similar public meetings of the entire population. This legislation deals chiefly with the mining industry, but criminal codes are also included. The Hawk Eye District enacted that "Any person found guilty of wilful murder shall be hanged by the neck till dead and then given to his friends if called for and if not to be decently buried, and all other crimes not enumerated in these laws shall be punished as the Court or jury of men may direct."

The Russell District devoted eight sections of its code to the organization of its Miners' Court, giving it "equity as well as law jurisdiction." Fifteen more sections stated in detail the rules of practice before the court, while other sections dealt with the "Trial and its Incidents" and with "Levy and Sale upon Execution." The volume contains much historical material of interest.

A. L. C.

*Jurisprudence.* By Sir John Salmond. Sixth Edition. London, Sweet & Maxwell, Ltd., 1920.

Salmond's *Jurisprudence*, first published in 1902, and now in its sixth edition, is an excellent example of the developed type of the analytical school of John Austin. The author is now Solicitor General of New Zealand. The first edition appeared when he was Professor of Law at the University of Adelaide. This edition contains no material changes from the prior edition except, perhaps, a more extended examination of the conception of state-territory, based upon the organization of the British Empire.

The disinclination of practicing lawyers to recognize the usefulness of jurisprudence in any form is well known. Mr. Dicey, as quoted by Professor Gray,